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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/761,123	01/20/2004	Baofeng Frank Jiang	1033-NW1002	8791

60533 7590 02/09/2007  
TOLER SCHAFFER, LLP  
8500 BLUFFSTONE COVE  
SUITE A201  
AUSTIN, TX 78759

EXAMINER
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TRAN, QUOC DUC

ART UNIT	PAPER NUMBER
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2614

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/09/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

10/761,123

Applicant(s)

JIANG ET AL.

Examiner

Quoc D. Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-15, 17 and 18 is/are rejected.
- 7) ☒ Claim(s) 4 and 16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 14 is objected to because of the following informalities: typographical errors in the claim. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3, 5-15, and 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schneider et al (6,819,746).

Consider claims 1 and 10, Schneider et al teach an automated method and system of adjusting digital subscriber line (DSL) performance (i.e., classification of service; see abstract), the method and system comprising: evaluating performance of a plurality of DSL lines using a computer based system; automatically selecting a set of DSL lines from the plurality of DSL lines, the set of DSL lines having degraded performance characteristics based on historical performance data accessible with respect to the computer based system (col. 4 lines 1-15; col. 8 lines 12-28; It should be noted that degrading performance may be determined based on monitoring or report based on customers trouble reports, see col. 6 lines 63-67); retrieving a plurality of line profiles from a profile database (col. 4 lines 1-15; col. 8 lines 12-28); measuring a performance parameter for each of the set of DSL lines (col. 7 line 60 – col. 8 line 7; col. 10 lines 35-42; i.e., performing qualification of lines); moving from the set of DSL lines any DSL

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lines that have suitable performance based on the measured performance parameter to create a revised set of DSL lines with degraded performance (col. 17 line 62 – col. 18 line 13; and applying one of the plurality of line profiles to each of the physical DSL lines identified by the revised set of DSL lines (col. 11 lines 1-21; level or quality of service read on the profiles).

It is acknowledged that Schneider et al disclosure is directed to qualifying or classifying or certifying DSL services for “new lines” rather than “existing DSL lines” as being claimed. However, col. 16 lines 44-46 suggested of providing information related to incompatible DSL lines. Therefore, it would have been obvious to modify the process of Schneider to qualifying or classifying or certifying existing DSL lines instead of new lines to check the integrity of the in-service lines or for quality assurance purposes.

Consider claim 2, Schneider et al teach the method further comprising storing data associated with the set of DSL lines (col. 8 lines 12-26).

Consider claims 3, 11 and 15, col. 12 line 59 – col. 13 lines 30 read on the limitations as claimed.

Consider claims 5 and 17, Schneider et al teach wherein each of the set of DSL lines is associated with one of the plurality of line profiles before the step of measuring a performance parameter for each of the set of DSL lines (col. 6 line 63 – col. 7 line 19).

Consider claims 6 and 18, Schneider et al teach wherein at least some of the plurality of line profiles associated with the set of DSL lines are the same profiles that are applied to each of the physical DSL lines (col. 6 line 63 – col. 7 line 19; col. 11 lines 1-21).

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Consider claim 7, Schneider et al teach wherein application of one of the plurality of line profiles to a physical DSL lines fails and where an error message is reported (col. 16 lines 44-59).

Consider claims 8-9 and 14, Col. 6 line 63 – col. 7 line 19 and col. 11 lines 1-21 read on the claimed limitations.

Consider claims 12-13, Col. 6 line 63 – col. 7 line 19; col. 8 lines 13-35 read on the claimed limitations.

***Allowable Subject Matter***

4. Claims 4 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

6. Any response to this action should be mailed to:

Mail Stop \_\_\_\_ (explanation, e.g., Amendment or After-final, etc.)

Commissioner for Patents

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Facsimile responses should be faxed to:

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Hand-delivered responses should be brought to:

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Quoc Tran** whose telephone number is **(571) 272-7511**. The examiner can normally be reached on M, T, TH and Friday from 8:00 to 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Curtis Kuntz**, can be reached on **(571) 272-7499**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Technology Center 2600** whose telephone number is **(571) 272-2600**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**QUOCTRAN**  
**PRIMARY EXAMINER**

  
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January 30, 2007